

### **REMARKS**

Claims 1-9, 11, 12, 15-22, 24, 25, 27 and 29 are pending. By this Amendment, claim 14 is canceled and dependent claim 29 is added. Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

#### **Rejection of Claim 14 Under 35 U.S.C. §112**

The Office Action rejects claim 14 under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants cancel claim 14 above to obviate this rejection.

#### **Double-Patenting Rejections**

The Office Action rejects claims 1-9, 11, 12, 14-22, 24, 25 and 27 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims 1-13, 15-27, 29 and 31 of co-pending allowed U.S. Patent Application No. 09/712,194, now U.S. Patent No. 6,941,266 (“the ‘266 patent”). Applicants hereby submit the attached Terminal Disclaimer to obviate the double patenting rejections. Accordingly, Applicants submit that claims 1-9, 11, 12, 14-22, 24, 25 and 27 are in condition for allowance.

#### **Rejection of Claims 1-9, 11, 12, 14-22, 24, 25, 27 and 28 Under 35 U.S.C. §103(a)**

The Office Action rejects under 35 U.S.C. §103(a) claims 1, 3-9, 11, 14, 15, 17-22, 24 and 27 as being unpatentable over Horvitz (U.S. Patent No. 6,490,698) (“Horvitz ‘698”), in view of Horvitz (U.S. Patent No. 6,421,655) (“Horvitz ‘655”), claims 2, 16 and 28 under 35 U.S.C. §103(a) as being unpatentable over Horvitz ‘698 and Horvitz ‘655 in further view of Shipman (U.S. Patent No. 5,033,088) (“Shipman”), and claims 12 and 25 under 35 U.S.C. §103(a) as being unpatentable over Horvitz ‘698 and Horvitz ‘655 in further view of Litman (Automatic Detection of Poor Speech Recognition at the Dialogue Level) (“Litman”). Applicants respectfully traverse these rejections.

With regard to the rejection of claim 28 (*See*, O.A. p. 5), Applicants submit that claim 28 was canceled in the November 23, 2004 Office Action Response. Accordingly, the above rejection of canceled claim 28 is moot and will not be addressed.

Applicants appreciate the allowance and issuance of the related '266 patent by the present Examiner of this application. As the Office Action notes with respect the double patenting rejection discussed above, the claims of the '266 patent are not identical but are not patentably distinct. Horvitz '655, Horvitz '698, Shipman and Litman were considered by the present Examiner during prosecution of the '266 patent. Accordingly, subject to the Terminal Disclaimer filed with this Amendment, Applicants assert that the present application is allowable for at least the same reasons as set forth during prosecution of the '266 patent.

In particular, Applicants assert that Horvitz '655, Horvitz '698, Shipman and Litman do not disclose or suggest at least "the probability is determined using dialog training data stored in a dialog training database, the dialog training data including at least one of dialog classification models and extracted dialog features," as recited in independent claims 1 and 15.

Applicants assert that at best, only Bayesian networks for obtaining probabilities for decision making are disclosed. *See*, e.g., Horvitz '698 at col. 7, lines 66-67 and Horvitz '655 at col. 7, lines 31-42. The use of Bayesian networks are not the dialog classification models or extracted dialog features as claimed. Thus, Horvitz '698 and Horvitz '655 do not disclose determining probability using dialog training data stored in a dialog training database that includes at least one of dialog classification models and extracted dialog features as claimed in independent claims 1 and 15.

In addition, Applicants assert that Horvitz '655, Horvitz '698, Shipman and Litman do not disclose or suggest at least "determining whether the probability of conducting a successful dialog with the user exceeds the first threshold using the first dialog exchange and the second

dialog exchange” as recited independent claims 12 and 25. That is, there is no suggestion in Horvitz (‘698 and ‘655) and Litman of using first and second dialog exchanges as recited in claims 12 and 25, where the first and second dialog exchanges include first and second dialog outputs and first and second input communications of a user.

Shipman does not overcome the above-noted deficiencies of Horvitz ‘698, Horvitz ‘655 and Litman. In particular, Shipman does not disclose or suggest at least “the probability is determined using dialog training data stored in a dialog training database, the dialog training data including at least one of dialog classification models and extracted dialog features,” as recited in independent claims 1 and 15, and “determining whether the probability of conducting a successful dialog with the user exceeds the first threshold using the first dialog exchange and the second dialog exchange” as recited independent claims 12 and 25.

Therefore, Applicants assert that independent claims 1, 12, 15 and 25 contain allowable subject matter. Claims 2-9, 11, 16-22, 24, 27 and 29 depend from independent claims 1, 12, 15, and 25 and therefore also contain allowable subject matter. Accordingly, Applicants request that the rejections under 35 U.S.C. §103(a) be withdrawn.

**CONCLUSION**

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. The Commissioner for Patents is authorized to charge or credit the **Law Office of Thomas M. Isaacson, Account No. 502960** for any deficiency or overpayment.

Respectfully submitted,

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